

SHB 2314 - H AMD 597
By Representative Orcutt

FAILED 04/21/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "PART I
4 SELF-SERVICE LAUNDRY
5 AND DIRECT MAIL DELIVERY CHARGES

6 **Sec. 101.** RCW 82.04.050 and 2004 c 174 s 3 and 2004 c 153 s 407
7 are each reenacted and amended to read as follows:

8 (1) "Sale at retail" or "retail sale" means every sale of tangible
9 personal property (including articles produced, fabricated, or
10 imprinted) to all persons irrespective of the nature of their business
11 and including, among others, without limiting the scope hereof, persons
12 who install, repair, clean, alter, improve, construct, or decorate real
13 or personal property of or for consumers other than a sale to a person
14 who presents a resale certificate under RCW 82.04.470 and who:

15 (a) Purchases for the purpose of resale as tangible personal
16 property in the regular course of business without intervening use by
17 such person, but a purchase for the purpose of resale by a regional
18 transit authority under RCW 81.112.300 is not a sale for resale; or

19 (b) Installs, repairs, cleans, alters, imprints, improves,
20 constructs, or decorates real or personal property of or for consumers,
21 if such tangible personal property becomes an ingredient or component
22 of such real or personal property without intervening use by such
23 person; or

24 (c) Purchases for the purpose of consuming the property purchased
25 in producing for sale a new article of tangible personal property or
26 substance, of which such property becomes an ingredient or component or
27 is a chemical used in processing, when the primary purpose of such
28 chemical is to create a chemical reaction directly through contact with
29 an ingredient of a new article being produced for sale; or

1 (d) Purchases for the purpose of consuming the property purchased
2 in producing ferrosilicon which is subsequently used in producing
3 magnesium for sale, if the primary purpose of such property is to
4 create a chemical reaction directly through contact with an ingredient
5 of ferrosilicon; or

6 (e) Purchases for the purpose of providing the property to
7 consumers as part of competitive telephone service, as defined in RCW
8 82.04.065. The term shall include every sale of tangible personal
9 property which is used or consumed or to be used or consumed in the
10 performance of any activity classified as a "sale at retail" or "retail
11 sale" even though such property is resold or utilized as provided in
12 (a), (b), (c), (d), or (e) of this subsection following such use. The
13 term also means every sale of tangible personal property to persons
14 engaged in any business which is taxable under RCW 82.04.280 (2) and
15 (7), 82.04.290, and 82.04.2908.

16 (2) The term "sale at retail" or "retail sale" shall include the
17 sale of or charge made for tangible personal property consumed and/or
18 for labor and services rendered in respect to the following:

19 (a) The installing, repairing, cleaning, altering, imprinting, or
20 improving of tangible personal property of or for consumers, including
21 charges made for the mere use of facilities in respect thereto, but
22 excluding charges made for the use of ~~((coin-operated))~~ self-service
23 ~~laundry facilities ((when such facilities are situated in an apartment
24 house, rooming house, or mobile home park for the exclusive use of the
25 tenants thereof))~~, and also excluding sales of laundry service to
26 nonprofit health care facilities, and excluding services rendered in
27 respect to live animals, birds and insects;

28 (b) The constructing, repairing, decorating, or improving of new or
29 existing buildings or other structures under, upon, or above real
30 property of or for consumers, including the installing or attaching of
31 any article of tangible personal property therein or thereto, whether
32 or not such personal property becomes a part of the realty by virtue of
33 installation, and shall also include the sale of services or charges
34 made for the clearing of land and the moving of earth excepting the
35 mere leveling of land used in commercial farming or agriculture;

36 (c) The charge for labor and services rendered in respect to
37 constructing, repairing, or improving any structure upon, above, or
38 under any real property owned by an owner who conveys the property by

1 title, possession, or any other means to the person performing such
2 construction, repair, or improvement for the purpose of performing such
3 construction, repair, or improvement and the property is then
4 reconveyed by title, possession, or any other means to the original
5 owner;

6 (d) The sale of or charge made for labor and services rendered in
7 respect to the cleaning, fumigating, razing or moving of existing
8 buildings or structures, but shall not include the charge made for
9 janitorial services; and for purposes of this section the term
10 "janitorial services" shall mean those cleaning and caretaking services
11 ordinarily performed by commercial janitor service businesses
12 including, but not limited to, wall and window washing, floor cleaning
13 and waxing, and the cleaning in place of rugs, drapes and upholstery.
14 The term "janitorial services" does not include painting, papering,
15 repairing, furnace or septic tank cleaning, snow removal or
16 sandblasting;

17 (e) The sale of or charge made for labor and services rendered in
18 respect to automobile towing and similar automotive transportation
19 services, but not in respect to those required to report and pay taxes
20 under chapter 82.16 RCW;

21 (f) The sale of and charge made for the furnishing of lodging and
22 all other services by a hotel, rooming house, tourist court, motel,
23 trailer camp, and the granting of any similar license to use real
24 property, as distinguished from the renting or leasing of real
25 property, and it shall be presumed that the occupancy of real property
26 for a continuous period of one month or more constitutes a rental or
27 lease of real property and not a mere license to use or enjoy the same.
28 For the purposes of this subsection, it shall be presumed that the sale
29 of and charge made for the furnishing of lodging for a continuous
30 period of one month or more to a person is a rental or lease of real
31 property and not a mere license to enjoy the same;

32 (g) The sale of or charge made for tangible personal property,
33 labor and services to persons taxable under (a), (b), (c), (d), (e),
34 and (f) of this subsection when such sales or charges are for property,
35 labor and services which are used or consumed in whole or in part by
36 such persons in the performance of any activity defined as a "sale at
37 retail" or "retail sale" even though such property, labor and services
38 may be resold after such use or consumption. Nothing contained in this

1 subsection shall be construed to modify subsection (1) of this section
2 and nothing contained in subsection (1) of this section shall be
3 construed to modify this subsection.

4 (3) The term "sale at retail" or "retail sale" shall include the
5 sale of or charge made for personal, business, or professional services
6 including amounts designated as interest, rents, fees, admission, and
7 other service emoluments however designated, received by persons
8 engaging in the following business activities:

9 (a) Amusement and recreation services including but not limited to
10 golf, pool, billiards, skating, bowling, ski lifts and tows, day trips
11 for sightseeing purposes, and others, when provided to consumers;

12 (b) Abstract, title insurance, and escrow services;

13 (c) Credit bureau services;

14 (d) Automobile parking and storage garage services;

15 (e) Landscape maintenance and horticultural services but excluding
16 (i) horticultural services provided to farmers and (ii) pruning,
17 trimming, repairing, removing, and clearing of trees and brush near
18 electric transmission or distribution lines or equipment, if performed
19 by or at the direction of an electric utility;

20 (f) Service charges associated with tickets to professional
21 sporting events; and

22 (g) The following personal services: Physical fitness services,
23 tanning salon services, tattoo parlor services, steam bath services,
24 turkish bath services, escort services, and dating services.

25 (4)(a) The term shall also include:

26 (i) The renting or leasing of tangible personal property to
27 consumers; and

28 (ii) Providing tangible personal property along with an operator
29 for a fixed or indeterminate period of time. A consideration of this
30 is that the operator is necessary for the tangible personal property to
31 perform as designed. For the purpose of this subsection (4)(a)(ii), an
32 operator must do more than maintain, inspect, or set up the tangible
33 personal property.

34 (b) The term shall not include the renting or leasing of tangible
35 personal property where the lease or rental is for the purpose of
36 sublease or subrent.

37 (5) The term shall also include the providing of telephone service,
38 as defined in RCW 82.04.065, to consumers.

1 (6) The term shall also include the sale of prewritten computer
2 software other than a sale to a person who presents a resale
3 certificate under RCW 82.04.470, regardless of the method of delivery
4 to the end user, but shall not include custom software or the
5 customization of prewritten computer software.

6 (7) The term shall not include the sale of or charge made for labor
7 and services rendered in respect to the building, repairing, or
8 improving of any street, place, road, highway, easement, right of way,
9 mass public transportation terminal or parking facility, bridge,
10 tunnel, or trestle which is owned by a municipal corporation or
11 political subdivision of the state or by the United States and which is
12 used or to be used primarily for foot or vehicular traffic including
13 mass transportation vehicles of any kind.

14 (8) The term shall also not include sales of chemical sprays or
15 washes to persons for the purpose of postharvest treatment of fruit for
16 the prevention of scald, fungus, mold, or decay, nor shall it include
17 sales of feed, seed, seedlings, fertilizer, agents for enhanced
18 pollination including insects such as bees, and spray materials to:

19 (a) Persons who participate in the federal conservation reserve
20 program, the environmental quality incentives program, the wetlands
21 reserve program, and the wildlife habitat incentives program, or their
22 successors administered by the United States department of agriculture;

23 (b) farmers for the purpose of producing for sale any agricultural
24 product; and (c) farmers acting under cooperative habitat development
25 or access contracts with an organization exempt from federal income tax
26 under 26 U.S.C. Sec. 501(c)(3) or the Washington state department of
27 fish and wildlife to produce or improve wildlife habitat on land that
28 the farmer owns or leases.

29 (9) The term shall not include the sale of or charge made for labor
30 and services rendered in respect to the constructing, repairing,
31 decorating, or improving of new or existing buildings or other
32 structures under, upon, or above real property of or for the United
33 States, any instrumentality thereof, or a county or city housing
34 authority created pursuant to chapter 35.82 RCW, including the
35 installing, or attaching of any article of tangible personal property
36 therein or thereto, whether or not such personal property becomes a
37 part of the realty by virtue of installation. Nor shall the term
38 include the sale of services or charges made for the clearing of land

1 and the moving of earth of or for the United States, any
2 instrumentality thereof, or a county or city housing authority. Nor
3 shall the term include the sale of services or charges made for
4 cleaning up for the United States, or its instrumentalities,
5 radioactive waste and other byproducts of weapons production and
6 nuclear research and development.

7 **Sec. 102.** RCW 82.08.010 and 2004 c 153 s 406 are each amended to
8 read as follows:

9 For the purposes of this chapter:

10 (1) "Selling price" includes "sales price." "Sales price" means
11 the total amount of consideration, except separately stated trade-in
12 property of like kind, including cash, credit, property, and services,
13 for which tangible personal property or services defined as a "retail
14 sale" under RCW 82.04.050 are sold, leased, or rented, valued in money,
15 whether received in money or otherwise. No deduction from the total
16 amount of consideration is allowed for the following: (a) The seller's
17 cost of the property sold; (b) the cost of materials used, labor or
18 service cost, interest, losses, all costs of transportation to the
19 seller, all taxes imposed on the seller, and any other expense of the
20 seller; (c) charges by the seller for any services necessary to
21 complete the sale, other than delivery and installation charges; (d)
22 delivery charges; (e) installation charges; and (f) the value of exempt
23 tangible personal property given to the purchaser where taxable and
24 exempt tangible personal property have been bundled together and sold
25 by the seller as a single product or piece of merchandise.

26 When tangible personal property is rented or leased under
27 circumstances that the consideration paid does not represent a
28 reasonable rental for the use of the articles so rented or leased, the
29 "selling price" shall be determined as nearly as possible according to
30 the value of such use at the places of use of similar products of like
31 quality and character under such rules as the department may prescribe.

32 "Selling price" or "sales price" does not include: Discounts,
33 including cash, term, or coupons that are not reimbursed by a third
34 party that are allowed by a seller and taken by a purchaser on a sale;
35 interest, financing, and carrying charges from credit extended on the
36 sale of tangible personal property or services, if the amount is
37 separately stated on the invoice, bill of sale, or similar document

1 given to the purchaser; and any taxes legally imposed directly on the
2 consumer that are separately stated on the invoice, bill of sale, or
3 similar document given to the purchaser;

4 (2) "Seller" means every person, including the state and its
5 departments and institutions, making sales at retail or retail sales to
6 a buyer, purchaser, or consumer, whether as agent, broker, or
7 principal, except "seller" does not mean the state and its departments
8 and institutions when making sales to the state and its departments and
9 institutions;

10 (3) "Buyer," "purchaser," and "consumer" include, without limiting
11 the scope hereof, every individual, receiver, assignee, trustee in
12 bankruptcy, trust, estate, firm, copartnership, joint venture, club,
13 company, joint stock company, business trust, corporation, association,
14 society, or any group of individuals acting as a unit, whether mutual,
15 cooperative, fraternal, nonprofit, or otherwise, municipal corporation,
16 quasi municipal corporation, and also the state, its departments and
17 institutions and all political subdivisions thereof, irrespective of
18 the nature of the activities engaged in or functions performed, and
19 also the United States or any instrumentality thereof;

20 (4) "Delivery charges" means charges by the seller of personal
21 property or services for preparation and delivery to a location
22 designated by the purchaser of personal property or services including,
23 but not limited to, transportation, shipping, postage, handling,
24 crating, and packing;

25 (5) "Direct mail" means printed material delivered or distributed
26 by United States mail or other delivery service to a mass audience or
27 to addressees on a mailing list provided by the purchaser or at the
28 direction of the purchaser when the cost of the items are not billed
29 directly to the recipients. "Direct mail" includes tangible personal
30 property supplied directly or indirectly by the purchaser to the direct
31 mail seller for inclusion in the package containing the printed
32 material. "Direct mail" does not include multiple items of printed
33 material delivered to a single address;

34 (6) The meaning attributed in chapter 82.04 RCW to the terms "tax
35 year," "taxable year," "person," "company," "sale," "sale at retail,"
36 "retail sale," "sale at wholesale," "wholesale," "business," "engaging
37 in business," "cash discount," "successor," "consumer," "in this state"

1 and "within this state" shall apply equally to the provisions of this
2 chapter;

3 ((+6+)) (7) For the purposes of the taxes imposed under this
4 chapter and under chapter 82.12 RCW, "tangible personal property" means
5 personal property that can be seen, weighed, measured, felt, or
6 touched, or that is in any other manner perceptible to the senses.
7 Tangible personal property includes electricity, water, gas, steam, and
8 prewritten computer software.

9 NEW SECTION. **Sec. 103.** A new section is added to chapter 82.04
10 RCW to read as follows:

11 (1) In computing tax there may be deducted from the measure of tax,
12 amounts derived from delivery charges made for the delivery of direct
13 mail if the charges are separately stated on an invoice or similar
14 billing document given to the purchaser.

15 (2) "Delivery charges" and "direct mail" have the same meanings as
16 in RCW 82.08.010.

17 NEW SECTION. **Sec. 104.** A new section is added to chapter 82.08
18 RCW to read as follows:

19 The tax levied by RCW 82.08.020 does not apply to delivery charges
20 made for the delivery of direct mail if the charges are separately
21 stated on an invoice or similar billing document given to the
22 purchaser.

23 NEW SECTION. **Sec. 105.** A new section is added to chapter 82.12
24 RCW to read as follows:

25 (1) The tax levied by this chapter does not apply to the value of
26 delivery charges made for the delivery of direct mail if the charges
27 are separately stated on an invoice or similar billing document given
28 to the purchaser.

29 (2) "Delivery charges" and "direct mail" have the same meanings as
30 in RCW 82.08.010.

31 **PART II**
32 **BOARDING HOMES**

1 recognized by the national cancer institute as a comprehensive cancer
2 center and that qualifies as an exempt organization under 26 U.S.C.
3 Sec. 501(c)(3) as existing on the effective date of this section.

4 NEW SECTION. **Sec. 302.** A new section is added to chapter 82.08
5 RCW to read as follows:

6 (1) The tax levied by RCW 82.08.020 does not apply to the sale of
7 medical supplies, chemicals, or materials to a comprehensive cancer
8 center. The exemption in this section does not apply to the sale of
9 construction materials, office equipment, building equipment,
10 administrative supplies, or vehicles.

11 (2) For the purposes of this section, the following definitions
12 apply:

13 (a) "Comprehensive cancer center" has the meaning provided in
14 section 301 of this act.

15 (b) "Chemical" means any catalyst, solvent, water, acid, oil, or
16 other additive that physically or chemically interacts with blood,
17 bone, or tissue.

18 (c) "Materials" means any item of tangible personal property,
19 including, but not limited to, bags, packs, collecting sets, filtering
20 materials, testing reagents, antisera, and refrigerants used or
21 consumed in performing research on, procuring, testing, processing,
22 storing, packaging, distributing, or using blood, bone, or tissue.

23 (d) "Research" means basic and applied research that has as its
24 objective the design, development, refinement, testing, marketing, or
25 commercialization of a product, service, or process.

26 (e) "Medical supplies" means any item of tangible personal
27 property, including any repair and replacement parts for such tangible
28 personal property, used by a comprehensive cancer center for the
29 purpose of performing research on, procuring, testing, processing,
30 storing, packaging, distributing, or using blood, bone, or tissue. The
31 term includes tangible personal property used to:

32 (i) Provide preparatory treatment of blood, bone, or tissue;

33 (ii) Control, guide, measure, tune, verify, align, regulate, test,
34 or physically support blood, bone, or tissue; and

35 (iii) Protect the health and safety of employees or others present
36 during research on, procuring, testing, processing, storing, packaging,
37 distributing, or using blood, bone, or tissue.

1 is greater than or equal to nine-tenths, then the fraction is rounded
2 to one. For purposes of this subsection, "returns" means the combined
3 excise tax returns for the calendar year.

4 (3) For the purposes of this section, "commercial passenger
5 airplane" and "component" have the meanings given in RCW 82.32.550.

6 (4) A person taking the credit under this section is subject to all
7 the requirements of chapter 82.32 RCW. In addition, the person must
8 report as required under RCW 82.32.545. A credit earned during one
9 calendar year may be carried over to be credited against taxes incurred
10 in a subsequent calendar year, but may not be carried over a second
11 year. No refunds may be granted for credits under this section.

12 (5) In addition to all other requirements under this title, a
13 person taking the credit under this section must report as required
14 under RCW 82.32.545.

15 (6) This section expires July 1, 2024.

16 **PART V**

17 **AMPHITHEATERS**

18 **Sec. 501.** RCW 82.29A.130 and 1999 c 165 s 21 are each amended to
19 read as follows:

20 The following leasehold interests shall be exempt from taxes
21 imposed pursuant to RCW 82.29A.030 and 82.29A.040:

22 (1) All leasehold interests constituting a part of the operating
23 properties of any public utility which is assessed and taxed as a
24 public utility pursuant to chapter 84.12 RCW.

25 (2) All leasehold interests in facilities owned or used by a
26 school, college or university which leasehold provides housing for
27 students and which is otherwise exempt from taxation under provisions
28 of RCW 84.36.010 and 84.36.050.

29 (3) All leasehold interests of subsidized housing where the fee
30 ownership of such property is vested in the government of the United
31 States, or the state of Washington or any political subdivision thereof
32 but only if income qualification exists for such housing.

33 (4) All leasehold interests used for fair purposes of a nonprofit
34 fair association that sponsors or conducts a fair or fairs which
35 receive support from revenues collected pursuant to RCW 67.16.100 and
36 allocated by the director of the department of agriculture where the

1 fee ownership of such property is vested in the government of the
2 United States, the state of Washington or any of its political
3 subdivisions: PROVIDED, That this exemption shall not apply to the
4 leasehold interest of any sublessee of such nonprofit fair association
5 if such leasehold interest would be taxable if it were the primary
6 lease.

7 (5) All leasehold interests in any property of any public entity
8 used as a residence by an employee of that public entity who is
9 required as a condition of employment to live in the publicly owned
10 property.

11 (6) All leasehold interests held by enrolled Indians of lands owned
12 or held by any Indian or Indian tribe where the fee ownership of such
13 property is vested in or held in trust by the United States and which
14 are not subleased to other than to a lessee which would qualify
15 pursuant to this chapter, RCW 84.36.451 and 84.40.175.

16 (7) All leasehold interests in any real property of any Indian or
17 Indian tribe, band, or community that is held in trust by the United
18 States or is subject to a restriction against alienation imposed by the
19 United States: PROVIDED, That this exemption shall apply only where it
20 is determined that contract rent paid is greater than or equal to
21 ninety percent of fair market rental, to be determined by the
22 department of revenue using the same criteria used to establish taxable
23 rent in RCW 82.29A.020(2)(b).

24 (8) All leasehold interests for which annual taxable rent is less
25 than two hundred fifty dollars per year. For purposes of this
26 subsection leasehold interests held by the same lessee in contiguous
27 properties owned by the same lessor shall be deemed a single leasehold
28 interest.

29 (9) All leasehold interests which give use or possession of the
30 leased property for a continuous period of less than thirty days:
31 PROVIDED, That for purposes of this subsection, successive leases or
32 lease renewals giving substantially continuous use of possession of the
33 same property to the same lessee shall be deemed a single leasehold
34 interest: PROVIDED FURTHER, That no leasehold interest shall be deemed
35 to give use or possession for a period of less than thirty days solely
36 by virtue of the reservation by the public lessor of the right to use
37 the property or to allow third parties to use the property on an
38 occasional, temporary basis.

1 (10) All leasehold interests under month-to-month leases in
2 residential units rented for residential purposes of the lessee pending
3 destruction or removal for the purpose of constructing a public highway
4 or building.

5 (11) All leasehold interests in any publicly owned real or personal
6 property to the extent such leasehold interests arises solely by virtue
7 of a contract for public improvements or work executed under the public
8 works statutes of this state or of the United States between the public
9 owner of the property and a contractor.

10 (12) All leasehold interests that give use or possession of state
11 adult correctional facilities for the purposes of operating
12 correctional industries under RCW 72.09.100.

13 (13) All leasehold interests used to provide organized and
14 supervised recreational activities for disabled persons of all ages in
15 a camp facility and for public recreational purposes by a nonprofit
16 organization, association, or corporation that would be exempt from
17 property tax under RCW 84.36.030(1) if it owned the property. If the
18 publicly owned property is used for any taxable purpose, the leasehold
19 excise taxes set forth in RCW 82.29A.030 and 82.29A.040 shall be
20 imposed and shall be apportioned accordingly.

21 (14) All leasehold interests in the public or entertainment areas
22 of a baseball stadium with natural turf and a retractable roof or
23 canopy that is in a county with a population of over one million, that
24 has a seating capacity of over forty thousand, and that is constructed
25 on or after January 1, 1995. "Public or entertainment areas" include
26 ticket sales areas, ramps and stairs, lobbies and concourses, parking
27 areas, concession areas, restaurants, hospitality and stadium club
28 areas, kitchens or other work areas primarily servicing other public or
29 entertainment areas, public rest room areas, press and media areas,
30 control booths, broadcast and production areas, retail sales areas,
31 museum and exhibit areas, scoreboards or other public displays, storage
32 areas, loading, staging, and servicing areas, seating areas and suites,
33 the playing field, and any other areas to which the public has access
34 or which are used for the production of the entertainment event or
35 other public usage, and any other personal property used for these
36 purposes. "Public or entertainment areas" does not include locker
37 rooms or private offices exclusively used by the lessee.

1 (15) All leasehold interests in the public or entertainment areas
2 of a stadium and exhibition center, as defined in RCW 36.102.010, that
3 is constructed on or after January 1, 1998. For the purposes of this
4 subsection, "public or entertainment areas" has the same meaning as in
5 subsection (14) of this section, and includes exhibition areas.

6 (16) All leasehold interests in public facilities districts, as
7 provided in chapter 36.100 or 35.57 RCW.

8 (17) All leasehold interests in the public or entertainment areas
9 of an amphitheater if a private entity is responsible for one hundred
10 percent of the cost of constructing the amphitheater which is not
11 reimbursed by the public owner, both the public owner and the private
12 lessee sponsor events at the facility on a regular basis, the lessee is
13 responsible under the lease or agreement to operate and maintain the
14 facility, and the amphitheater has a seating capacity of over seventeen
15 thousand reserved and general admission seats and is in a county with
16 a population of over three hundred fifty thousand, but less than four
17 hundred twenty-five thousand. For the purposes of this subsection,
18 "public or entertainment areas" include box offices or other ticket
19 sales areas, entrance gates, ramps and stairs, lobbies and concourses,
20 parking areas, concession areas, restaurants, hospitality areas,
21 kitchens or other work areas primarily servicing other public or
22 entertainment areas, public rest room areas, press and media areas,
23 control booths, broadcast and production areas, retail sales areas,
24 museum and exhibit areas, scoreboards or other public displays, storage
25 areas, loading, staging, and servicing areas, seating areas including
26 lawn seating areas and suites, stages, and any other areas to which the
27 public has access or which are used for the production of the
28 entertainment event or other public usage, and any other personal
29 property used for these purposes. "Public or entertainment areas" does
30 not include office areas used predominately by the lessee.

31 **PART VI**

32 **HISTORIC AUTOMOBILE MUSEUM**

33 NEW SECTION. Sec. 601. A new section is added to chapter 82.32
34 RCW to read as follows:

35 (1) The governing board of a nonprofit organization, corporation,
36 or association may apply for deferral of taxes on an eligible project.

1 Application shall be made to the department in a form and manner
2 prescribed by the department. The application shall contain
3 information regarding the location of the project, estimated or actual
4 costs of the project, time schedules for completion and operation of
5 the project, and other information required by the department. The
6 department shall rule on the application within sixty days. All
7 applications for the tax deferral under this section must be received
8 no later than December 31, 2008.

9 (2) The department shall issue a sales and use tax deferral
10 certificate for state and local sales and use taxes due under chapters
11 82.08, 82.12, and 82.14 RCW on each eligible project.

12 (3) The nonprofit organization, corporation, or association shall
13 begin paying the deferred taxes in the fifth year after the date
14 certified by the department as the date on which the eligible project
15 is operationally complete. The first payment is due on December 31st
16 of the fifth calendar year after such certified date, with subsequent
17 annual payments due on December 31st of the following nine years. Each
18 payment shall equal ten percent of the deferred tax.

19 (4) The department may authorize an accelerated repayment schedule
20 upon request of the nonprofit organization, corporation, or
21 association.

22 (5) Except as provided in subsection (6) of this section, interest
23 shall not be charged on any taxes deferred under this section for the
24 period of deferral. The debt for deferred taxes is not extinguished by
25 insolvency or other failure of the nonprofit organization, corporation,
26 or association.

27 (6) If the project is not operationally complete within five
28 calendar years from issuance of the tax deferral or if at any time the
29 department finds that the project is not eligible for tax deferral
30 under this section, the amount of deferred taxes outstanding for the
31 project shall be immediately due and payable. If deferred taxes must
32 be repaid under this subsection, the department shall assess interest,
33 but not penalties, on amounts due under this subsection. Interest
34 shall be assessed at the rate provided for delinquent taxes under this
35 chapter, retroactively to the date of deferral, and shall accrue until
36 the deferred taxes due are repaid.

37 (7) Applications and any other information received by the

1 department of revenue under this section are not confidential under RCW
2 82.32.330. This chapter applies to the administration of this section.

3 (8) This section applies to taxable eligible project activity that
4 occurs on or after July 1, 2007.

5 (9) The following definitions apply to this section:

6 (a) "Eligible project" means a project that is used primarily for
7 a historic automobile museum.

8 (b) "Historic automobile museum" means a facility owned and
9 operated by a nonprofit organization, corporation, or association that
10 is used to maintain and exhibit to the public a collection of at least
11 five hundred motor vehicles.

12 (c) "Nonprofit organization, corporation, or association" means an
13 organization, corporation, or association exempt from tax under section
14 501(c) (3), (4), or (10) of the federal internal revenue code (26
15 U.S.C. Sec. 501(c) (3), (4), or (10)).

16 (d) "Project" means the construction of new structures, the
17 acquisition and installation of fixtures that are permanently affixed
18 to and become a physical part of those structures, and site
19 preparation. For purposes of this subsection, structures do not
20 include parking facilities used for motor vehicles that are not on
21 display or part of the museum collection.

22 (e) "Site preparation" includes soil testing, site clearing and
23 grading, demolition, or any other related activities that are initiated
24 before construction. Site preparation does not include landscaping
25 services or landscaping materials.

26 **PART VII**
27 **NURSING HOMES**

28 **Sec. 701.** RCW 82.71.020 and 2003 1st sp.s. c 16 s 2 are each
29 amended to read as follows:

30 (1) In addition to any other tax, a quality maintenance fee is
31 imposed on every operator of a nonexempt nursing facility in this
32 state. The quality maintenance fee shall be:

33 (a) Six dollars and fifty cents per patient day through June 30,
34 2005;

35 (b) Five dollars and twenty-five cents per patient day for the
36 period July 1, 2005, through June 30, 2007;

1 due to a shifting population base, changes in the marketplace, and
2 greater competition from suburban shopping malls, discount centers, and
3 business transacted through the internet;

4 (c) This decline has eroded the ability of businesses and property
5 owners to renovate and enhance their commercial and residential
6 properties; and

7 (d) Business owners in these districts need to maintain their local
8 economies in order to provide goods and services to adjacent residents,
9 to provide employment opportunities, to avoid disinvestment and
10 economic dislocations, and to develop and sustain downtown and
11 neighborhood commercial district revitalization programs to address
12 these problems.

13 (2) It is the intent of the legislature to establish a program to:

14 (a) Work in partnership with these organizations;

15 (b) Provide technical assistance and training to local governments,
16 business organizations, downtown and neighborhood commercial district
17 organizations, and business and property owners to accomplish community
18 and economic revitalization and development of business districts; and

19 (c) Certify a downtown or neighborhood commercial district
20 organization's use of available tax incentives.

21 NEW SECTION. Sec. 802. Unless the context clearly requires
22 otherwise, the definitions in this section apply throughout this
23 chapter.

24 (1) "Applicant" means a person applying for a tax credit under this
25 chapter.

26 (2) "Contribution" means cash contributions.

27 (3) "Department" means the department of revenue.

28 (4) "Person" has the meaning given in RCW 82.04.030.

29 (5) "Program" means a nonprofit organization under internal revenue
30 code sections 501(c)(3) or 501(c)(6), with the sole mission of
31 revitalizing a downtown or neighborhood commercial district area, that
32 is designated by the department of community, trade, and economic
33 development as described in sections 808 through 812 of this act.

34 (6) "Main street trust fund" means the department of community,
35 trade, and economic development's main street trust fund account under
36 section 812 of this act.

1 NEW SECTION. **Sec. 803.** (1) Application for tax credits under this
2 chapter must be made to the department before making a contribution to
3 a program or the main street trust fund. The application shall be made
4 to the department in a form and manner prescribed by the department.
5 The application shall contain information regarding the proposed amount
6 of contribution to a program or the main street trust fund, and other
7 information required by the department to determine eligibility under
8 this act. The department shall rule on the application within forty-
9 five days. Applications shall be approved on a first-come basis.

10 (2) The person must make the contribution described in the approved
11 application by the end of the calendar year in which the application is
12 approved to claim a credit allowed under section 804 of this act.

13 (3) The department shall not accept any applications before January
14 1, 2006.

15 NEW SECTION. **Sec. 804.** (1) Subject to the limitations in this
16 chapter, a credit is allowed against the tax imposed by chapters 82.04
17 and 82.16 RCW for approved contributions that are made by a person to
18 a program or the main street trust fund.

19 (2) The credit allowed under this section is limited to an amount
20 equal to:

21 (a) Seventy-five percent of the approved contribution made by a
22 person to a program; or

23 (b) Fifty percent of the approved contribution made by a person to
24 the main street trust fund.

25 (3) The department may not approve credit with respect to a program
26 in a city or town with a population of one hundred ninety thousand
27 persons or more.

28 (4) The department shall keep a running total of all credits
29 approved under this chapter for each calendar year. The department
30 shall not approve any credits under this section that would cause the
31 total amount of approved credits statewide to exceed one million five
32 hundred thousand dollars in any calendar year.

33 (5) The total credits allowed under this chapter for contributions
34 made to each program may not exceed one hundred thousand dollars in a
35 calendar year. The total credits allowed under this chapter for a
36 person may not exceed two hundred fifty thousand dollars in a calendar
37 year.

1 (6) The credit may be claimed against any tax due under chapters
2 82.04 and 82.16 RCW only in the calendar year immediately following the
3 calendar year in which the credit was approved by the department and
4 the contribution was made to the program or the main street trust fund.
5 Credits may not be carried over to subsequent years. No refunds may be
6 granted for credits under this chapter.

7 (7) The total amount of the credit claimed in any calendar year by
8 a person may not exceed the lesser amount of the approved credit, or
9 seventy-five percent of the amount of the contribution that is made by
10 the person to a program and fifty percent of the amount of the
11 contribution that is made by the person to the main street trust fund,
12 in the prior calendar year.

13 NEW SECTION. **Sec. 805.** To claim a credit under this chapter, a
14 person must electronically file with the department all returns, forms,
15 and other information the department requires in an electronic format
16 as provided or approved by the department. Any return, form, or
17 information required to be filed in an electronic format under this
18 section is not filed until received by the department in an electronic
19 format. As used in this subsection, "returns" has the same meaning as
20 "return" in RCW 82.32.050.

21 NEW SECTION. **Sec. 806.** The department of community, trade, and
22 economic development shall provide information to the department to
23 administer this chapter, including a list of designated programs that
24 shall be updated as necessary.

25 NEW SECTION. **Sec. 807.** Chapter 82.32 RCW applies to the
26 administration of this chapter.

27 NEW SECTION. **Sec. 808.** The definitions in this section apply
28 throughout this chapter unless the context clearly requires otherwise.

29 (1) "Area" means a geographic area within a local government that
30 is described by a closed perimeter boundary.

31 (2) "Department" means the department of community, trade, and
32 economic development.

33 (3) "Director" means the director of the department of community,
34 trade, and economic development.

1 (4) "Local government" means a city, code city, or town.

2 (5) "Qualified levels of participation" means a local downtown or
3 neighborhood commercial district revitalization program that has been
4 designated by the department.

5 NEW SECTION. **Sec. 809.** The Washington main street program is
6 created within the department. In order to implement the Washington
7 main street program, the department shall:

8 (1) Provide technical assistance to businesses, property owners,
9 organizations, and local governments undertaking a comprehensive
10 downtown or neighborhood commercial district revitalization initiative
11 and management strategy. Technical assistance may include, but is not
12 limited to, initial site evaluations and assessments, training for
13 local programs, training for local program staff, site visits and
14 assessments by technical specialists, local program design assistance
15 and evaluation, and continued local program on-site assistance;

16 (2) To the extent funds are made available, provide financial
17 assistance to local governments or local organizations to assist in
18 initial downtown or neighborhood commercial district revitalization
19 program start-up costs, specialized training, specific project
20 feasibility studies, market studies, and design assistance;

21 (3) Develop objective criteria for selecting recipients of
22 assistance under subsections (1) and (2) of this section, which shall
23 include priority for downtown or neighborhood commercial district
24 revitalization programs located in a rural county as defined in RCW
25 43.160.020(12), and provide for designation of local programs under
26 section 810 of this act;

27 (4) Operate the Washington main street program in accordance with
28 the plan developed by the department, in consultation with the
29 Washington main street advisory committee created under section 811 of
30 this act; and

31 (5) Consider other factors the department deems necessary for the
32 implementation of this chapter.

33 NEW SECTION. **Sec. 810.** (1) The department shall adopt criteria
34 for the designation of local downtown or neighborhood commercial
35 district revitalization programs and official local main street
36 programs. In establishing the criteria, the department shall consider:

1 (a) The degree of interest and commitment to comprehensive downtown
2 or neighborhood commercial district revitalization and, where
3 applicable, historic preservation by both the public and private
4 sectors;

5 (b) The evidence of potential private sector investment in the
6 downtown or neighborhood commercial district;

7 (c) Where applicable, a downtown or neighborhood commercial
8 district with sufficient historic fabric to become a foundation for an
9 enhanced community image;

10 (d) The capacity of the organization to undertake a comprehensive
11 program and the financial commitment to implement a long-term downtown
12 or neighborhood commercial district revitalization program that
13 includes a commitment to employ a professional program manager and
14 maintain a sufficient operating budget;

15 (e) The department's existing downtown revitalization program's
16 tier system;

17 (f) The national main street center's criteria for designating
18 official main street cities; and

19 (g) Other factors the department deems necessary for the
20 designation of a local program.

21 (2) The department shall designate local downtown or neighborhood
22 commercial district revitalization programs and official local main
23 street programs. The programs shall be limited to three categories of
24 designation, one of which shall be the main street level.

25 (3) Section 802 of this act does not apply to any local downtown or
26 neighborhood commercial district revitalization program unless the
27 boundaries of the program have been identified and approved by the
28 department. The boundaries of a local downtown or neighborhood
29 commercial district revitalization program are typically defined using
30 the pedestrian core of a traditional commercial district.

31 (4) The department may not designate a local downtown or
32 neighborhood commercial district revitalization program or official
33 local main street program if the program is undertaken by a local
34 government with a population of one hundred ninety thousand persons or
35 more.

36 NEW SECTION. **Sec. 811.** (1) The Washington main street advisory

1 committee is created within the department. The members of the
2 advisory committee are appointed by the director and consist of:

3 (a) The director, or the director's designee, who shall serve as
4 chair;

5 (b) Two representatives from local governments;

6 (c) Five representatives from existing local main street programs
7 or downtown and neighborhood commercial district programs including a
8 combination of staff, property owners, and business owners; and

9 (d) One representative from the Washington trust for historic
10 preservation.

11 (2) The department shall develop a plan for the Washington main
12 street program, in consultation with the Washington main street
13 advisory committee. The plan must describe:

14 (a) The objectives and strategies of the Washington main street
15 program;

16 (b) How the Washington main street program will be coordinated with
17 existing federal, state, local, and private sector business development
18 and historic preservation efforts;

19 (c) The means by which private investment will be solicited and
20 employed;

21 (d) The methods of selecting and providing assistance to
22 participating local programs; and

23 (e) A means to solicit private contributions for state and local
24 operations of the Washington main street program.

25 NEW SECTION. **Sec. 812.** The Washington main street trust fund
26 account is created in the state treasury. All receipts from private
27 contributions, federal funds, legislative appropriations, and fees for
28 services, if levied, must be deposited into the account. Expenditures
29 from the account may be used only for the operation of the Washington
30 main street program.

31 **PART IX**

32 **HIGH TECHNOLOGY BUSINESSES**

33 NEW SECTION. **Sec. 901.** A new section is added to chapter 82.32
34 RCW to read as follows:

35 (1) If the department finds that the failure of a taxpayer to file

1 an annual survey under RCW 82.04.4452 by the due date was the result of
2 circumstances beyond the control of the taxpayer, the department shall
3 extend the time for filing the survey. Such extension shall be for a
4 period of thirty days from the date the department issues its written
5 notification to the taxpayer that it qualifies for an extension under
6 this section. The department may grant additional extensions as it
7 deems proper.

8 (2) In making a determination whether the failure of a taxpayer to
9 file an annual survey by the due date was the result of circumstances
10 beyond the control of the taxpayer, the department shall be guided by
11 rules adopted by the department for the waiver or cancellation of
12 penalties when the underpayment or untimely payment of any tax was due
13 to circumstances beyond the control of the taxpayer.

14 NEW SECTION. **Sec. 902.** A new section is added to chapter 82.32
15 RCW to read as follows:

16 (1) Persons required to file surveys under RCW 82.04.4452 must
17 electronically file with the department all surveys, returns, and any
18 other forms or information the department requires in an electronic
19 format as provided or approved by the department, unless the department
20 grants relief under subsection (2) of this section. As used in this
21 section, "returns" has the same meaning as "return" in RCW 82.32.050.

22 (2) Upon request, the department may relieve a person of the
23 obligations in subsection (1) of this section if the person's taxes
24 have been reduced a cumulative total of less than one thousand dollars
25 from all of the credits, exemptions, or preferential business and
26 occupation tax rates, for which a person is required to file an annual
27 survey under RCW 82.04.4452, 82.32.535, 82.32.545, 82.32.570,
28 82.32.560, 82.60.070, or 82.63.020.

29 (3) Persons who no longer qualify for relief under subsection (2)
30 of this section will be notified in writing by the department and must
31 comply with subsection (1) of this section by the date provided in the
32 notice.

33 (4) Any survey, return, or any other form or information required
34 to be filed in an electronic format under subsection (1) of this
35 section is not filed until received by the department in an electronic
36 format.

1 **Sec. 903.** RCW 82.04.4452 and 2004 c 2 s 2 are each amended to read
2 as follows:

3 (1) In computing the tax imposed under this chapter, a credit is
4 allowed for each person whose research and development spending during
5 the year in which the credit is claimed exceeds 0.92 percent of the
6 person's taxable amount during the same calendar year.

7 (2) The credit shall be calculated as follows:

8 (a) Determine the greater of the amount of qualified research and
9 development expenditures of a person or eighty percent of amounts
10 received by a person other than a public educational or research
11 institution in compensation for the conduct of qualified research and
12 development;

13 (b) Subtract 0.92 percent of the person's taxable amount from the
14 amount determined under (a) of this subsection;

15 (c) Multiply the amount determined under (b) of this subsection by
16 ((the rate provided in RCW 82.04.260(3) in the case of a nonprofit
17 corporation or nonprofit association engaging within this state in
18 research and development, and the person's average tax rate for every
19 other person)) the following:

20 (i) For the period June 10, 2004, through December 31, 2006, the
21 person's average tax rate for the calendar year for which the credit is
22 claimed;

23 (ii) For the calendar year ending December 31, 2007, the greater of
24 the person's average tax rate for that calendar year or 0.75 percent;

25 (iii) For the calendar year ending December 31, 2008, the greater
26 of the person's average tax rate for that calendar year or 1.0 percent;

27 (iv) For the calendar year ending December 31, 2009, the greater of
28 the person's average tax rate for that calendar year or 1.25 percent;

29 (v) For the calendar year ending December 31, 2010, and thereafter,
30 1.50 percent.

31 For purposes of calculating the credit, if a person's reporting
32 period is less than annual, the person may use an estimated average tax
33 rate for the calendar year for which the credit is claimed by using the
34 person's average tax rate for each reporting period. A person who uses
35 an estimated average tax rate must make an adjustment to the total
36 credit claimed for the calendar year using the person's actual average
37 tax rate for the calendar year when the person files its last return
38 for the calendar year for which the credit is claimed.

1 (3) Any person entitled to the credit provided in subsection (2) of
2 this section as a result of qualified research and development
3 conducted under contract may assign all or any portion of the credit to
4 the person contracting for the performance of the qualified research
5 and development.

6 (4) The credit, including any credit assigned to a person under
7 subsection (3) of this section, shall be ~~((taken))~~ claimed against
8 taxes due for the same calendar year in which the qualified research
9 and development expenditures are incurred. The credit, including any
10 credit assigned to a person under subsection (3) of this section, for
11 each calendar year shall not exceed the lesser of two million dollars
12 or the amount of tax otherwise due under this chapter for the calendar
13 year.

14 (5) For any person ~~((taking))~~ claiming the credit, including any
15 credit assigned to a person under subsection (3) of this section, whose
16 research and development spending during the calendar year in which the
17 credit is claimed fails to exceed 0.92 percent of the person's taxable
18 amount during the same calendar year ~~((shall be liable for payment of
19 the additional))~~ or who is otherwise ineligible, the department shall
20 declare the taxes ~~((represented by the amount of))~~ against which the
21 credit ~~((taken together with))~~ was claimed to be immediately due and
22 payable. The department shall assess interest, but not penalties, on
23 the taxes against which the credit was claimed. Interest shall be
24 ~~((due))~~ assessed at the rate provided for delinquent excise taxes under
25 chapter 82.32 RCW, retroactively to the date the credit was ~~((taken~~
26 ~~until the taxes are paid))~~ claimed, and shall accrue until the taxes
27 against which the credit was claimed are repaid. Any credit assigned
28 to a person under subsection (3) of this section that is disallowed as
29 a result of this section may be ~~((taken))~~ claimed by the person who
30 performed the qualified research and development subject to the
31 limitations set forth in subsection (4) of this section.

32 (6) ~~((Any person claiming the credit, and any person assigning a
33 credit as provided in subsection (3) of this section, shall file an
34 annual report in a form prescribed by the department which shall
35 include the amount of the credit claimed, the qualified research and
36 development expenditures during the calendar year for which the credit
37 is claimed, and the taxable amount during the calendar year for which~~

1 ~~the credit is claimed, and such additional information as the~~
2 ~~department may prescribe. The report is due by March 31st following~~
3 ~~any year a credit is taken.~~

4 (7)) (a) The legislature finds that accountability and
5 effectiveness are important aspects of setting tax policy. In order to
6 make policy choices regarding the best use of limited state resources
7 the legislature needs information on how a tax incentive is used.

8 (b) A person claiming the credit shall ~~((agree to))~~ file a complete
9 ~~((an))~~ annual survey with the department. ~~((The annual survey is in~~
10 ~~addition to the annual report due under subsection (6) of this~~
11 ~~section.))~~ The survey is due by March 31st following any year in which
12 a credit is ~~((taken))~~ claimed. The department may extend the due date
13 for timely filing of annual surveys under this section as provided in
14 section 901 of this act. The survey shall include the amount of the
15 tax credit ~~((taken))~~ claimed, the qualified research and development
16 expenditures during the calendar year for which the credit is claimed,
17 the taxable amount during the calendar year for which the credit is
18 claimed, the number of new products or research projects by general
19 classification, ((and)) the number of trademarks, patents, and
20 copyrights associated with the research and development activities for
21 which a credit was ((taken)) claimed, and whether the credit has been
22 assigned under subsection (3) of this section and who assigned the
23 credit. The survey shall also include the following information for
24 employment positions in Washington:

25 (i) The number of total employment positions;

26 (ii) Full-time, part-time, and temporary employment positions as a
27 percent of total employment;

28 (iii) The number of employment positions according to the following
29 wage bands: Less than thirty thousand dollars; thirty thousand dollars
30 or greater, but less than sixty thousand dollars; and sixty thousand
31 dollars or greater. A wage band containing fewer than three
32 individuals may be combined with another wage band; and

33 (iv) The number of employment positions that have employer-provided
34 medical, dental, and retirement benefits, by each of the wage bands.

35 (c) The department may request additional information necessary to
36 measure the results of the tax credit program, to be submitted at the
37 same time as the survey.

1 (d)(i) All information collected under this subsection, except the
2 amount of the tax credit (~~(taken)~~) claimed, is deemed taxpayer
3 information under RCW 82.32.330 (~~(and is not disclosable)~~).
4 Information on the amount of tax credit (~~(taken)~~) claimed is not
5 subject to the confidentiality provisions of RCW 82.32.330 and may be
6 disclosed to the public upon request, ~~except (that)~~ as provided in
7 this subsection (6)(d). If the amount of the tax credit as reported on
8 the survey is different than the amount actually claimed on the
9 taxpayer's tax returns or otherwise allowed by the department, the
10 amount actually claimed or allowed may be disclosed.

11 (ii) Persons (~~(taking)~~) for whom the actual amount of the tax
12 credit claimed on the taxpayer's returns or otherwise allowed by the
13 department is less than ten thousand dollars (of credit) during the
14 period covered by the survey may request the department to treat the
15 tax credit amount as confidential under RCW 82.32.330.

16 (e) If a person fails to file a complete (the) annual survey
17 required under this subsection with the department by the due date or
18 any extension under section 901 of this act, the person entitled to the
19 credit provided in subsection (2) of this section is not eligible to
20 (~~(take)~~) claim or assign the credit provided in subsection (2) of this
21 section in the year the person failed to timely file a complete (the)
22 survey.

23 (~~(+8)~~) (7) The department shall use the information from
24 subsection (~~(+7)~~) (6) of this section to prepare summary descriptive
25 statistics by category. No fewer than three taxpayers shall be
26 included in any category. The department shall report these statistics
27 to the legislature each year by September 1st.

28 (~~(+9)~~) (8) The department shall use the information from
29 subsection (~~(+7)~~) (6) of this section to study the tax credit program
30 authorized under this section. The department shall report to the
31 legislature by December 1, 2009, and December 1, 2013. The reports
32 shall measure the effect of the program on job creation, the number of
33 jobs created for Washington residents, company growth, the introduction
34 of new products, the diversification of the state's economy, growth in
35 research and development investment, the movement of firms or the
36 consolidation of firms' operations into the state, and such other
37 factors as the department selects.

38 (~~(+10)~~) (9) For the purpose of this section:

1 (a) "Average tax rate" means a person's total tax liability under
2 this chapter for the ~~((reporting period))~~ calendar year for which the
3 credit is claimed divided by the taxpayer's total taxable ~~((income))~~
4 amount under this chapter for the ~~((reporting period))~~ calendar year
5 for which the credit is claimed.

6 (b) "Qualified research and development expenditures" means
7 operating expenses, including wages, compensation of a proprietor or a
8 partner in a partnership as determined under rules adopted by the
9 department, benefits, supplies, and computer expenses, directly
10 incurred in qualified research and development by a person claiming the
11 credit provided in this section. The term does not include amounts
12 paid to a person other than a public educational or research
13 institution to conduct qualified research and development. Nor does
14 the term include capital costs and overhead, such as expenses for land,
15 structures, or depreciable property.

16 (c) "Qualified research and development" shall have the same
17 meaning as in RCW 82.63.010.

18 (d) "Research and development spending" means qualified research
19 and development expenditures plus eighty percent of amounts paid to a
20 person other than a public educational or research institution to
21 conduct qualified research and development.

22 (e) "Taxable amount" means the taxable amount subject to the tax
23 imposed in this chapter required to be reported on the person's
24 combined excise tax returns ~~((during))~~ for the calendar year ~~((in))~~ for
25 which the credit is claimed, less any taxable amount for which a credit
26 is allowed under RCW 82.04.440.

27 ~~((+11))~~ (10) This section expires January 1, 2015.

28 NEW SECTION. Sec. 904. (1) A person who owes additional tax as a
29 result of section 903(9)(a), chapter ..., Laws of 2005 (section
30 903(9)(a) of this act) is liable for interest, but not penalties as
31 provided in RCW 82.32.090 (1) and (2), if the entire additional tax
32 liability is paid in full to the department of revenue before January
33 1, 2006. Interest shall be assessed at the rate provided for
34 delinquent excise taxes under chapter 82.32 RCW, retroactively to the
35 date the credit was claimed, and shall accrue until the additional tax
36 is repaid.

1 (2) Persons who fail to repay the full amount of additional tax
2 owed as a result of section 903(9)(a), chapter ..., Laws of 2005
3 (section 903(9)(a) of this act) before January 1, 2006, are subject to
4 all applicable penalties and interest as provided in chapter 82.32 RCW
5 on the additional tax owing after December 31, 2005.

6 (3) This section expires December 31, 2010.

7 **PART X**
8 **ESTATES**

9 **Sec. 1001.** RCW 83.100.--- and 2005 c ... (ESB 6096) s 4 are each
10 amended to read as follows:

11 (1) For the purposes of determining the Washington taxable estate,
12 a deduction is allowed from the federal taxable estate for (~~the value~~
13 ~~of qualified real property and the value of any tangible personal~~
14 ~~property used primarily for farming purposes conducted on the qualified~~
15 ~~real property, reduced by any amounts allowable as a deduction in~~
16 ~~respect of the qualified real property and tangible personal property~~
17 ~~under section 2053(a)(4) of the Internal Revenue Code, if the decedent~~
18 ~~was at the time of his or her death a citizen or resident of the United~~
19 ~~States. For the purposes of determining the deduction amount, the~~
20 ~~value of property is its value as used to determine the value of the~~
21 ~~gross estate)):~~

22 (a) The value of qualified real property reduced by any amounts
23 allowable as a deduction in respect of the qualified real property and
24 tangible personal property under section 2053(a)(4) of the internal
25 revenue code, if the decedent was at the time of his or her death a
26 citizen or resident of the United States.

27 (b) The value of any tangible personal property used by the
28 decedent or a member of the decedent's family for a qualified use on
29 the date of the decedent's death, reduced by any amounts allowable as
30 a deduction in respect of the tangible personal property under section
31 2053(a)(4) of the internal revenue code, if all of the requirements of
32 subsection (10)(f)(i)(A) of this section are met and the decedent was
33 at the time of his or her death a citizen or resident of the United
34 States.

35 (c) The value of real property that is not deductible under (a) of
36 this subsection solely by reason of subsection (10)(f)(i)(B) of this

1 section, reduced by any amounts allowable as a deduction in respect of
2 the qualified real property and tangible personal property under
3 section 2053(a)(4) of the internal revenue code, if the requirements of
4 subsection (10)(f)(i)(C) of this section are met with respect to the
5 property and the decedent was at the time of his or her death a citizen
6 or resident of the United States.

7 (2) Property shall be considered to have been acquired from or to
8 have passed from the decedent if:

9 (a) The property is so considered under section 1014(b) of the
10 Internal Revenue Code;

11 (b) The property is acquired by any person from the estate; or

12 (c) The property is acquired by any person from a trust, to the
13 extent the property is includible in the gross estate of the decedent.

14 (3) If the decedent and the decedent's surviving spouse at any time
15 held qualified real property as community property, the interest of the
16 surviving spouse in the property shall be taken into account under this
17 section to the extent necessary to provide a result under this section
18 with respect to the property which is consistent with the result which
19 would have obtained under this section if the property had not been
20 community property.

21 (4) In the case of any qualified woodland, the value of trees
22 growing on the woodland may be deducted if otherwise qualified under
23 this section.

24 (5) If property is qualified real property with respect to a
25 decedent, hereinafter in this subsection referred to as the "first
26 decedent," and the property was acquired from or passed from the first
27 decedent to the surviving spouse of the first decedent, active
28 management of the farm by the surviving spouse shall be treated as
29 material participation by the surviving spouse in the operation of the
30 farm.

31 (6) Property owned indirectly by the decedent may qualify for a
32 deduction under this section if owned through an interest in a
33 corporation, partnership, or trust as the terms corporation,
34 partnership, or trust are used in section 2032A(g) of the Internal
35 Revenue Code. In order to qualify for a deduction under this
36 subsection, the interest, in addition to meeting the other tests for
37 qualification under this section, must qualify under section 6166(b)(1)
38 of the Internal Revenue Code as an interest in a closely held business

1 on the date of the decedent's death and for sufficient other time,
2 combined with periods of direct ownership, to equal at least five years
3 of the eight-year period preceding the death.

4 (7)(a) If, on the date of the decedent's death, the requirements of
5 subsection (10)(f)(i)(C)(II) of this section with respect to the
6 decedent for any property are not met, and the decedent (i) was
7 receiving old age benefits under Title II of the social security act
8 for a continuous period ending on such date, or (ii) was disabled for
9 a continuous period ending on this date, then subsection
10 (10)(f)(i)(C)(II) of this section shall be applied with respect to the
11 property by substituting "the date on which the longer of such
12 continuous periods began" for "the date of the decedent's death" in
13 subsection (10)(f)(i)(C) of this section.

14 (b) For the purposes of (a) of this subsection, an individual shall
15 be disabled if the individual has a mental or physical impairment which
16 renders that individual unable to materially participate in the
17 operation of the farm.

18 (8) Property may be deducted under this section whether or not
19 special valuation is elected under section 2032A of the Internal
20 Revenue Code on the federal return. For the purposes of determining
21 the deduction under this section, the value of property is its value as
22 used to determine the value of the gross estate.

23 (9)(a) In the case of any qualified replacement property, any
24 period during which there was ownership, qualified use, or material
25 participation with respect to the replaced property by the decedent or
26 any member of the decedent's family shall be treated as a period during
27 which there was ownership, use, or material participation, as the case
28 may be, with respect to the qualified replacement property.

29 (b) Subsection (9)(a) of this section shall not apply to the extent
30 that the fair market value of the qualified replacement property, as of
31 the date of its acquisition, exceeds the fair market value of the
32 replaced property, as of the date of its disposition.

33 (c) For the purposes of this subsection (9), the following
34 definitions apply:

35 (i) "Qualified replacement property" means any real property:

36 (A) Which is acquired in an exchange which qualifies under section
37 1031 of the Internal Revenue Code; or

1 (B) The acquisition of which results in the nonrecognition of gain
2 under section 1033 of the Internal Revenue Code.

3 The term "qualified replacement property" only includes property
4 which is used for the same qualified use as the replaced property was
5 being used before the exchange.

6 (ii) "Replaced property" means the property was:

7 (A) Transferred in the exchange which qualifies under section 1031
8 of the Internal Revenue Code; or

9 (B) Compulsorily or involuntarily converted within the meaning of
10 section 1033 of the Internal Revenue Code.

11 (10) For the purposes of this section, the following definitions
12 apply:

13 (a) "Active management" means the making of the management
14 decisions of a farm, other than the daily operating decisions.

15 (b) "Farm" includes stock, dairy, poultry, fruit, furbearing
16 animal, and truck farms; plantations; ranches; nurseries; ranges;
17 greenhouses or other similar structures used primarily for the raising
18 of agricultural or horticultural commodities; and orchards and
19 woodlands.

20 (c) "Farming purposes" means:

21 (i) Cultivating the soil or raising or harvesting any agricultural
22 or horticultural commodity, including the raising, shearing, feeding,
23 caring for, training, and management of animals on a farm;

24 (ii) Handling, drying, packing, grading, or storing on a farm any
25 agricultural or horticultural commodity in its unmanufactured state,
26 but only if the owner, tenant, or operator of the farm regularly
27 produces more than one-half of the commodity so treated; and

28 (iii)(A) The planting, cultivating, caring for, or cutting of
29 trees; or

30 (B) The preparation, other than milling, of trees for market.

31 (d) "Member of the family" means, with respect to any individual,
32 only:

33 (i) An ancestor of the individual;

34 (ii) The spouse of the individual;

35 (iii) A lineal descendant of the individual, of the individual's
36 spouse, or of a parent of the individual; or

37 (iv) The spouse of any lineal descendant described in (d)(iii) of
38 this subsection.

1 For the purposes of this subsection (10)(d), a legally adopted
2 child of an individual shall be treated as the child of such individual
3 by blood.

4 (e) "Qualified heir" means, with respect to any property, a member
5 of the decedent's family who acquired property, or to whom property
6 passed, from the decedent.

7 (f)(i) "Qualified real property" means real property which was
8 acquired from or passed from the decedent to a qualified heir of the
9 decedent and which, on the date of the decedent's death, was being used
10 for a qualified use by the decedent or a member of the decedent's
11 family, but only if:

12 (A) Fifty percent or more of the adjusted value of the gross estate
13 consists of the adjusted value of real or personal property which:

14 (I) On the date of the decedent's death, was being used for a
15 qualified use by the decedent or a member of the decedent's family; and

16 (II) Was acquired from or passed from the decedent to a qualified
17 heir of the decedent;

18 (B) Twenty-five percent or more of the adjusted value of the gross
19 estate consists of the adjusted value of real property which meets the
20 requirements of (f)(i)(A)(II) and (f)(i)(C) of this subsection; and

21 (C) During the eight-year period ending on the date of the
22 decedent's death there have been periods aggregating five years or more
23 during which:

24 (I) The real property was owned by the decedent or a member of the
25 decedent's family and used for a qualified use by the decedent or a
26 member of the decedent's family; and

27 (II) There was material participation by the decedent or a member
28 of the decedent's family in the operation of the farm. For the
29 purposes of this subsection (f)(i)(C)(II), material participation shall
30 be determined in a manner similar to the manner used for purposes of
31 section 1402(a)(1) of the Internal Revenue Code.

32 (ii) For the purposes of this subsection, the term "adjusted value"
33 means:

34 (A) In the case of the gross estate, the value of the gross estate,
35 determined without regard to any special valuation under section 2032A
36 of the Internal Revenue Code, reduced by any amounts allowable as a
37 deduction under section 2053(a)(4) of the Internal Revenue Code; or

1 (B) In the case of any real or personal property, the value of the
2 property for purposes of chapter 11 of the Internal Revenue Code,
3 determined without regard to any special valuation under section 2032A
4 of the Internal Revenue Code, reduced by any amounts allowable as a
5 deduction in respect of such property under section 2053(a)(4) of the
6 Internal Revenue Code.

7 (g) "Qualified use" means the property is used as a farm for
8 farming purposes. In the case of real property which meets the
9 requirements of (f)(i)(C) of this subsection, residential buildings and
10 related improvements on the real property occupied on a regular basis
11 by the owner or lessee of the real property or by persons employed by
12 the owner or lessee for the purpose of operating or maintaining the
13 real property, and roads, buildings, and other structures and
14 improvements functionally related to the qualified use shall be treated
15 as real property devoted to the qualified use. For tangible personal
16 property eligible for a deduction under subsection (1)(b) of this
17 section, "qualified use" means the property is used primarily for
18 farming purposes on a farm.

19 (h) "Qualified woodland" means any real property which:

20 (i) Is used in timber operations; and

21 (ii) Is an identifiable area of land such as an acre or other area
22 for which records are normally maintained in conducting timber
23 operations.

24 (i) "Timber operations" means:

25 (i) The planting, cultivating, caring for, or cutting of trees; or

26 (ii) The preparation, other than milling, of trees for market.

27 PART XI

28 MISCELLANEOUS

29 NEW SECTION. Sec. 1101. Part headings used in this act are not
30 any part of the law.

31 NEW SECTION. Sec. 1102. Except as otherwise specifically provided
32 in this act, this act is necessary for the immediate preservation of
33 the public peace, health, or safety, or support of the state government
34 and its existing public institutions, and takes effect July 1, 2005.

1 NEW SECTION. **Sec. 1103.** Sections 102 through 105, 901, 903, 904,
2 1001, 1110, and 1111 of this act are necessary for the immediate
3 preservation of the public peace, health, or safety, or support of the
4 state government and its existing public institutions, and take effect
5 immediately.

6 NEW SECTION. **Sec. 1104.** Sections 401 and 902 of this act take
7 effect January 1, 2006.

8 NEW SECTION. **Sec. 1105.** Section 601 of this act takes effect July
9 1, 2007.

10 NEW SECTION. **Sec. 1106.** Sections 801 and 808 through 812 of this
11 act constitute a new chapter in Title 43 RCW.

12 NEW SECTION. **Sec. 1107.** Sections 802 through 807 of this act
13 constitute a new chapter in Title 82 RCW.

14 NEW SECTION. **Sec. 1108.** If any provision of this act or its
15 application to any person or circumstance is held invalid, the
16 remainder of the act or the application of the provision to other
17 persons or circumstances is not affected.

18 NEW SECTION. **Sec. 1109.** Sections 801 through 812 of this act may
19 be known and cited as the Washington main street act.

20 NEW SECTION. **Sec. 1110.** Section 903 of this act applies
21 retroactively to June 10, 2004.

22 NEW SECTION. **Sec. 1111.** Section 901 of this act applies
23 retroactively to annual surveys required under RCW 82.04.4452 that are
24 due after December 31, 2004."

25 Correct the title.

EFFECT: Removes all tax increases. Leaves in all exemptions,

deductions, and credits.

--- END ---